

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

JAMES H. FAIR

PLAINTIFF

V.

Civil ACTION NO. 1:14cv213-SA-DAS

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

The undersigned, having reviewed the plaintiff's motion to proceed *in forma pauperis*, recommends that the motion be denied and the plaintiff granted a reasonable time in which to pay the court costs.

In making its determination whether to grant the motion, this court considers whether the applicant has the resources and income to pay the court costs. Leave to proceed without payment of court costs is appropriate only where the party has no substantial assets and/or an income at or close to poverty level. The plaintiff's affidavit reveals a monthly income of \$ 1,581.00, claimed expenses of \$ 1,012.99, and savings of \$ 1,000.00. He has no dependents. The 2014 poverty level for an individual is \$ 11,670.00

(<http://aspe.hhs.gov/poverty/14poverty.cfm>). Fair's annual income of 18,972.00 is more than 150% of the poverty level. While Fair has only modest means, requiring him to pay court costs will not deprive him of the necessities of life. He therefore will not suffer any "undue financial hardship." *Walker v. Univ. of Texas Med. Branch*, 2008 WL 4873733, at *1 (E.D. Tex. Oct. 30, 2008).

The undersigned, for the foregoing reasons, recommends that the application for *in forma pauperis* status be denied and that the plaintiff be required to pay the court costs within fifteen days of the order on the motion.

The parties are referred to 28 U.S.C. 636 (b)(1) and Local Rule 72 (a)(3) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within fourteen days of this date. Failure to file written objections to the proposed finding and recommendations contained in this report within fourteen days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1417 (5th Cir. 1996).

This the 5th day of December, 2014.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE